

FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING

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2015 SEP 24 AM 10 23  
STEPHAN HARRIS, CLERK  
CASPER

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

Civil Action No. \_\_\_\_\_

UNITED FIRE & CASUALTY COMPANY, an Iowa corporation,

Plaintiff,

v.

**15cv 165**

GROWIN' GREEN, INC., a Wyoming corporation  
MAVERICK BARTLETT  
BOARD OF COUNTY COMMISSIONERS, TETON COUNTY

Defendants.

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**COMPLAINT FOR DECLARATORY JUDGMENT**

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Plaintiff, United Fire & Casualty Company, by and through its attorneys, Lambdin & Chaney, LLP, for its Complaint for Declaratory Judgment states the following:

I. JURISDICTION AND PARTIES

1. United Fire & Casualty Company (hereinafter "United Fire") is an Iowa corporation with its principal place of business in Cedar Rapids, Iowa.
2. Growin' Green, Inc. is a Wyoming corporation with its principal place of business in Jackson, Wyoming.
3. Maverick Bartlett is a citizen of the State of Wyoming.

3 issued.

4. The Board of County Commissioners for Teton County is a Wyoming governmental entity.

5. Plaintiff is of diverse citizenship from all of the Defendants. The matter in controversy exceeds, exclusive of interest and costs, the sum specified in 28 U.S.C. § 1332.

6. All necessary parties under F.R.C.P. Rule 57 and 28 U.S.C. § 2201 are before the Court.

## II. FACTUAL BACKGROUND

7 Plaintiff incorporates by reference the allegations contained in all preceding paragraphs as if set forth fully herein.

8. United Fire issued commercial policy number 60385291 to Growin' Green, Inc., effective 07-26-2014 to 07-26-2015, which contained a Business Auto Coverage Form.

9. Defendant Maverick Bartlett is an employee of Defendant Growin' Green, Inc.

10. Pursuant to Wyo. Stat. § 26-35-105:

An insurer in lieu of nonissuance, nonrenewal or premium increase offer to issue, continue or renew a motor vehicle insurance policy but to exclude from coverage, by name, the person whose claim experience or driving record would have justified the nonissuance, premium increase, cancellation or nonrenewal.

11. In consideration of United Fire continuing to provide coverage, United Fire and its named insured Growin' Green agreed that the policy would not apply to "loss" or "accident" arising out of the ownership, maintenance, operation or use of any vehicle by" Maverick Bartlett. The fully executed endorsement, attached as *Exhibit 1*, is titled EXCLUSION OF DESIGNATED PERSON(S) AND PARTIAL REJECTION OF COVERAGES.

12. "Loss" is defined as direct and accidental loss or damage. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage". "Property damage" means damage to or loss of use tangible property.

13. On or about April 16, 2015, Maverick Bartlett, an employee of Growin' Green was operating a 1996 Peterbuilt truck, traveling southbound on South Highway 89, when the truck hit the top of the bridge, resulting in significant damage to the bridge causing it to be closed to the traveling public.

14. Upon information and belief, the damage to the Swinging Bridge owned by Teton County is estimated to be between \$250,000 and \$400,000. The damage to the 1996 Peterbuilt truck owned by Growin' Green is estimated to be approximately \$13,000.

15. United Fire denied coverage for the loss.

16. United Fire complied with the notice requirements under the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101 *et seq.*, providing United Fire's signature certified to be under the penalty of perjury, attached as *Exhibit 2*.

### III. CLAIM FOR RELIEF

17. Plaintiff incorporates by reference the allegations contained in all preceding paragraphs as if set forth fully herein.

18. Plaintiff seeks declaratory judgment, pursuant to the Federal Declaratory Judgments Law, 28 U.S.C. § 2201 *et seq.* and F.R.C.P. 57, that there is no coverage under the contract of insurance for the April 16, 2015 accident involving a vehicle driven by excluded driver Maverick Bartlett.

19. In requesting this declaratory relief, Plaintiff is requesting an interpretation of the rights, legal status and relationships of the parties under the above law and facts.

20. Such interpretation is appropriate under the provisions of the Federal Declaratory Judgments Law, 28 U.S.C. § 2201 *et seq.* and F.R.C.P. 57.

WHEREFORE, Plaintiff requests that the Court determine the rights, status or other legal relations of the parties under the above law and facts, and for all other relief to which Plaintiff may be entitled, including costs, attorney fees and pre- and post-judgment interest as may be permitted by law.

PLAINTIFF REQUESTS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

DATED this 22<sup>nd</sup> day of September, 2015.

Respectfully submitted,

LAMBDIN & CHANEY, LLP

By:

  
L. Kathleen Chaney, Esq.  
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*Attorneys for United Fire*

Effective Date: **CONTINUOUS**

CA 71 17 03 09

Policy Number:  
**60 385291**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION OF DESIGNATED PERSON(S) AND PARTIAL REJECTION OF COVERAGES**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM**

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement changes the policy effective on the inception date of this policy unless another date is indicated below. Information required to complete this endorsement, if not shown below, will be shown in the Declarations Section.

**WARNING**

**THIS ACKNOWLEDGMENT AND REJECTION IS APPLICABLE TO ALL RENEWALS ISSUED BY US OR ANY AFFILIATED INSURER. HOWEVER, WHERE REQUIRED BY LAW OR REGULATION WE WILL PROVIDE A NOTICE WITH EACH RENEWAL AS FOLLOWS: "THIS POLICY CONTAINS A DESIGNATED PERSON(S) EXCLUSION."**

The following Exclusion is added to all coverages:

This policy does not apply to "loss" or "accident" arising out of the ownership, maintenance, operation or use of any vehicle by the following person or persons:

**MAVERICK BARTLETT**

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You further agree that this endorsement will also serve as a rejection of Uninsured/Underinsured Motorist coverage and Personal Injury protection, where permissible, while a covered "auto" or any other motor vehicle is operated by the excluded person.

Where mandated by law, this exclusion shall not operate to provide protection less than required by applicable minimum financial responsibility limits.

By signing this endorsement, I accept the coverage limitation as shown above. In states where permissible, the use of insured vehicles by excluded persons may be grounds for cancellation of an auto policy with the minimum statutory notice.

Date: June 28, 2012

Signed: Barbara J. Chamberland (Named Insured)

Title: Customer

Signed: Amy Chamberland (Witness)

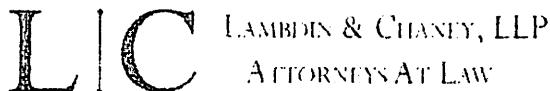
The absence of a signature above, where a signature is not required, shall not affect the validity of this endorsement.

CA 71 17 03 09

**EXHIBIT**

Tables

1



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July 27, 2015

Teton County Clerk  
Board of County Commissioners  
200 South Willow Street  
P.O. Box 1727  
Jackson, WY 83001

Re: Swinging Bridge Collision Damage Claim  
Date of Accident: April 16, 2015  
Our Client: United Fire & Casualty Company  
Named Insured: Growin' Green  
Involved Driver: Maverick Bartlett

To Whom It May Concern:

Please be advised that I represent United Fire & Casualty Company (United Fire) with respect to the above-captioned claim.

The purpose of this letter is to advise Teton County that there is no coverage under the United Fire policy because of an endorsement excluding coverage for any loss or accident arising out of the operation of a vehicle by Maverick Bartlett. That is, Mr. Bartlett was specifically excluded from coverage pursuant to the attached endorsement. United Fire intends to file a Complaint for Declaratory Judgment, requesting a court of competent jurisdiction to affirm that there is no coverage under the policy.

Pursuant to Wyo. Stat. § 1-39-113, the following notice is provided:

1. The loss occurred at approximately 10:20 p.m. on April 16, 2015, at E. Swinging Bridge Road in Teton County, Wyoming. Maverick Bartlett, an employee of Growin' Green, was operating a 1996 Peterbuilt truck, traveling southbound on South Highway 89, when the truck hit the top of the bridge, resulting in significant damage to the bridge causing it to be closed to the traveling public.

EXHIBIT

2

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LAMBDIN & CHANEY, LLP

Teton County Clerk

Re: *Swinging Bridge*

July 27, 2015

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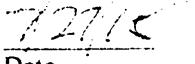
2. United Fire will be the "claimant" for purposes of filing a declaratory judgment action to determine its contractual obligations under its policy for the property damage to the truck and to the Swinging Bridge, arising out of the tort that occurred on April 16, 2015.

United Fire is an Iowa corporation. P.O. Box 73909, Cedar Rapids, IA 52407, and is represented by the undersigned counsel.

3. Upon information and belief, the property damage to the Swinging Bridge is estimated to be between \$250,000 to \$400,000. The property damage to the 1996 Peterbuilt truck is estimated to be approximately \$20,000.

I, Brandy Hoffmeier, Regional Claims Manager for United Fire & Casualty Company, have read and understand the provisions of the false swearing statute. I hereby certify under penalty of false swearing that the foregoing claim, including all of its attachments, if any, is true and accurate.

  
Signature

  
Date

Brandy Hoffmeier,  
Authorized Representative of United Fire

Should you have any questions, please feel free to call me. Otherwise, we will proceed with filing the declaratory judgment action and serve the County as required.

Sincerely,

LAMBDIN & CHANEY, LLP



L. Kathleen Chaney